

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 246, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
2 "SECTION 1. IC 4-33-2-6.5 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2007]: Sec. 6.5. "Development agreement" means an agreement
5 that:
6 (1) is between:
7 (A) the holder of an owner's license or operating agent
8 contract; and
9 (B) either:
10 (i) a person; or
11 (ii) a unit of local government; and
12 (2) sets forth the holder's financial commitments to support
13 economic development in a unit or a geographic region.
14 SECTION 2. IC 4-33-2-19 IS ADDED TO THE INDIANA CODE
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2007]: Sec. 19. "Incentive payment" means any payment that a
17 holder of an owner's license or an operating agent contract is
18 required to make under a development agreement.
19 SECTION 3. IC 4-33-4-22.5 IS ADDED TO THE INDIANA CODE
20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
21 1, 2007]: Sec. 22.5. (a) The commission has continuous jurisdiction

over development agreements and incentive payments, regardless of the date of the development agreement. The commission may verify and ensure that development agreements, incentive payments, and disbursements of incentive payment money received:

- (1) comport with the purposes of this article; and
- (2) do not adversely affect the integrity of the riverboat gambling industry in Indiana.

(b) The commission may not, under the commission's continuous jurisdiction over development agreements, redirect an otherwise lawful payment of money under the development agreement.

SECTION 4. IC 4-33-4-23, AS ADDED BY P.L.199-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) An operating agent or a person holding an owner's license must report annually to the commission the following:

- (1) The total dollar amounts and recipients of incentive payments made.
- (2) Any other items related to ~~the payments described in subdivision (1)~~ **an incentive payment** that the commission may require.

(b) The commission shall prescribe, with respect to ~~the a~~ report required by ~~subsection (a)~~: **this section:**

- (1) the format of the report;
- (2) the deadline by which the report must be filed; and
- (3) the manner in which the report must be maintained and filed.

(c) **A recipient of an incentive payment shall annually report to the commission a verified accounting of:**

- (1) the incentive payment received by the recipient; and
- (2) any disbursements of incentive payment money received.

(d) **A report required under subsection (c) must include:**

- (1) the legal name of the recipient of each disbursement;
- (2) the date, amount, and purpose of each disbursement; and
- (3) any other information required by the commission.

(e) Upon request of the commission, a recipient shall furnish to the commission sufficient documentation to prove the validity of a transaction described in a report required under subsection (c).

(f) **A report submitted under subsection (c) must be made available electronically through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.**

SECTION 5. IC 5-11-1-25 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 25. ~~(a) Except as specifically required or provided by another law, examinations under this chapter shall be conducted annually for the following:~~

~~(1) The state;~~

~~(2) Cities;~~

~~(3) Counties;~~

~~(4) Towns with a population greater than five thousand (5,000);~~

~~(5) Public hospitals;~~

~~(b) Subject to section 9 of this chapter, examinations under this chapter shall be conducted biennially for:~~

~~(1) municipalities; and~~

~~(2) entities;~~

~~that are not listed in subsection (a); on a schedule determined by the state board of accounts. The state board of accounts may not establish an audit schedule for the examination of an entity that is inconsistent with any federal audit guidelines that govern the entity.~~

SECTION 6. IC 5-11-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 20. Management and Use of Public Money by Municipal Benefit Entities

Sec. 1. This chapter applies only to a municipal benefit entity in a year in which the municipal benefit entity receives or holds public money.

Sec. 2. As used in this chapter, "contributing municipality" means a municipality that:

(1) gave public money to a municipal benefit entity;

(2) entered into an agreement under which a municipal benefit entity receives public money; or

(3) is a city, town, or county where a zone business (as defined in IC 5-28-15-3) received a benefit that resulted in a fee or assistance that was paid to a municipal benefit entity.

Sec. 3. As used in this chapter, "local economic development organization" has the meaning set forth in IC 5-28-11-2.

Sec. 4. (a) As used in this chapter, "municipal benefit entity" refers to any of the following:

(1) An instrumentality of a municipality.

(2) A local economic development organization that is maintained in whole or in part at public expense.

(3) A nonprofit corporation or charitable trust that:

(A) is not described in subdivision (1) or (2);

(B) has a principal purpose of making grants to unrelated organizations or institutions or to individuals for scientific, educational, cultural, or other governmental and municipal purposes; and

(C) is:

- (i) maintained in whole or in part at public expense; or
- (ii) supported in whole or in part by appropriations, public funds, taxation, or other public money.

(b) The term does not include the state, a municipality, or a public foundation for a nonpublic school (as defined in IC 20-18-2-12), state educational institution (as defined in IC 20-12-0.5-1), or private institution of higher education (as defined in IC 20-12-63-3).

Sec. 5. As used in this chapter, "public money" means the following:

- (1) Appropriations of the state or a municipality.
- (2) Public funds.
- (3) Taxes and other sources of public expense.
- (4) Anything of value derived from any of the following sources to the extent the amount would not otherwise qualify as public money under subdivisions (1) through (3):
 - (A) An interest in a grant, gift, donation, endowment, bequest, or trust that is transferred by a municipality.
 - (B) An agreement to share tax revenue received by a county or city under IC 4-33-12-6 or IC 4-33-13.
 - (C) An agreement with a municipality to share or designate the recipient of any payment from:
 - (i) a licensed owner (as defined in IC 4-33-2-13);
 - (ii) an operating agent (as defined in IC 4-33-2-14.5); or
 - (iii) a shareholder, partner, or member of a licensed owner (as defined in IC 4-33-2-13) or an operating agent (as defined in IC 4-33-2-14.5).
 - (D) Other funds not generated from a tax.
 - (E) Assistance or fees described in IC 5-28-15-5.

Sec. 6. (a) A contributing municipality shall after June 30, 2007, contractually require, as a condition of providing public money to a municipal benefit entity that is not required to be audited annually by the state board of accounts, that the municipal benefit entity must be audited by an independent accounting firm acceptable to the contributing municipality.

(b) A municipal benefit entity must provide the results of an audit by an independent accounting firm under this section to the

1 contributing municipality and, in the case of a municipal benefit
 2 entity that receives money described in section 5(4)(C) of this
 3 chapter, to the Indiana gaming commission.

4 (c) A municipal benefit entity shall pay the costs of an audit
 5 required by this section.

6 (d) The providing of an audit under this section by a municipal
 7 benefit entity may not result in the municipal benefit entity being
 8 considered a public agency for purposes of IC 5-14-1.5-2(a) or
 9 IC 5-14-3-2(l).

10 Sec. 7. A contributing municipality shall after June 30, 2007,
 11 contractually require, as a condition of providing public money to
 12 a municipal benefit entity, that:

13 (1) the members of the governing body; or

14 (2) if the municipal benefit entity is not governed by a board,
 15 the chief executive officer;

16 of the municipal benefit entity shall annually file a verified written
 17 certification with each contributing municipality stating that a
 18 written statement of accounts has been prepared showing at least
 19 the items listed in section 8 of this chapter. The certification must
 20 state that the statement of accounts is available to the contributing
 21 municipality and any member of the public upon request. A
 22 municipal benefit entity may not be exempted from these
 23 requirements by a provision in articles of incorporation, bylaws, a
 24 will, a trust agreement or other organizing agreement, an
 25 indenture, or another governing instrument. This section does not
 26 apply to an organization that is not required to file a federal
 27 information return under Section 6033(a)(3)(A)(i) or Section
 28 6033(a)(3)(A)(ii) of the Internal Revenue Code. The written
 29 statement of accounts must be signed under penalty of perjury by
 30 each of the individuals described in subdivision (1) or (2), as
 31 appropriate.

32 Sec. 8. A verified written statement of accounts under section 7
 33 of this chapter must show the following:

34 (1) The period covered by the account.

35 (2) The amount of public money held by the municipal benefit
 36 entity according to:

37 (A) the last preceding written statement of accounts; or

38 (B) the original amount received if there is no preceding
 39 statement.

40 (3) An itemized schedule of all public money received and
 41 disbursed, distributed, or otherwise disposed of during the
 42 period.

- 1 **(4) The balance of all public money remaining at the close of**
 2 **the period, a description of how the public money was**
 3 **invested, and both the inventory and current market values of**
 4 **all the investments.**
- 5 **(5) A statement that the municipal benefit entity has been**
 6 **administered according to all laws and any articles of**
 7 **incorporation, bylaws, wills, trust agreements or other**
 8 **organizing agreements, indentures, and other governing**
 9 **instruments governing the municipal benefit entity.**
- 10 **(6) A statement that all public money was held, invested, and**
 11 **expended according to all laws and other conditions**
 12 **applicable to receipt of the public money.**
- 13 **(7) The business addresses, if any, or the residence addresses**
 14 **of all the members of the governing board for the municipal**
 15 **benefit entity.**
- 16 **(8) The compensation received in the period by:**
 17 **(A) each member of the governing board; or**
 18 **(B) if the municipal benefit entity is not governed by a**
 19 **board, the chief executive officer;**
 20 **of the municipal benefit entity.**
- 21 **Sec. 9. The fiscal body of a contributing municipality shall**
 22 **review the amount of public money attributable to the**
 23 **municipality, an agreement entered into by the municipality, or a**
 24 **zone business (as defined in IC 5-28-15-3) in a district or zone**
 25 **established by the municipality that is used as compensation to or**
 26 **reimbursement of expenditures of:**
- 27 **(1) a member of the governing body; and**
 28 **(2) if the municipal benefit entity is not governed by a board,**
 29 **the chief executive officer;**
 30 **of a municipal benefit entity."**
- 31 Delete pages 2 through 8.
- 32 Renumber all SECTIONS consecutively.
 (Reference is to SB 246 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 9, Nays 0.

Senator Kenley, Chairperson